

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen DiFiore	Team: Squad #5	CCRB Case #: 201909840	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 11/02/2019 , Saturday, 11/02/2019 12:22 AM	Location of Incident: § 87(2)(b) 121st Precinct stationhouse	Precinct: 121	18 Mo. SOL 5/2/2021	EO SOL 12/17/2021	
Date/Time CV Reported Mon, 11/11/2019 11:58 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/11/2019 11:58 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Richard Degaetano	5660	951663	VED ZN2
2. DT3 Michael Wolfe	05987	952354	VED ZN2
3. Officers			VED ZN2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Jeffrey Liu	05402	943491	VED ZN2
2. LT Naveed Chaudry	00000	917057	121 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Richard Degaetano	Abuse: Detective Richard Degaetano entered § 87(2)(b) in Staten Island.	§ 87(2)(b)
B.DT3 Michael Wolfe	Abuse: Detective Michael Wolfe entered § 87(2)(b) in Staten Island.	§ 87(2)(b)
C. Officers	Abuse: Officers entered § 87(2)(b) in Staten Island.	§ 87(2)(b)
D.DT3 Richard Degaetano	Abuse: Detective Richard Degaetano searched § 87(2)(b) in Staten Island.	§ 87(2)(b)

Case Summary

On November 11, 2019, § 87(2)(b) filed the following complaint by phone with IAB, generating original log 19-39863. The CCRB received the complaint on November 11, 2019.

On November 2, 2019, at approximately 12:22 a.m., § 87(2)(e)

§ 87(2)(e)

§ 87(2)(e) Det. Degaetano, Det. Wolfe, and additional officers entered the club (**Allegations A-C: Abuse of Authority, § 87(2)(g)** Det. Degaetano also searched a rear storage room in the club (**Allegation D: Abuse of Authority, § 87(2)(g)**

Det. Degaetano arrested § 87(2)(b) § 87(2)(b)

§ 87(2)(b)

The investigation obtained a cellphone video, filmed by § 87(2)(b) showing the interior of the club (BR03). The investigation did not obtain any BWC footage for this incident. Vice Enforcement officers were not equipped with BWCs at the time of the incident. In addition, the Patrol Guide prohibits the activation of BWCs during operations involving undercover officers.

This incident was the second in a series of three incidents involving Det. Degaetano taking enforcement action at § 87(2)(b)'s unlicensed club. § 87(2)(g), § 87(2)(e), § 87(2)(b)

§ 87(2)(g), § 87(2)(e), § 87(2)(b)

§ 87(2)(g), § 87(2)(e), § 87(2)(b)

Allegation (A) Abuse of Authority: Detective Richard Degaetano entered § 87(2)(b) in Staten Island.

Allegation (B) Abuse of Authority: Detective Michael Wolfe entered § 87(2)(b) in Staten Island.

Allegation (C) Abuse of Authority: Officers entered § 87(2)(b) in Staten Island.

It is undisputed that Det. Degaetano, Det. Wolfe, and other officers entered the social club. It is also undisputed that § 87(2)(b) unknowingly allowed at least one undercover officer to enter the club. It is further undisputed that the club did not have a liquor license at the time of the incident.

The physical location § 87(2)(g) is a ground-floor commercial space with a front entrance, a single public area with a fully stocked bar, barstools, and a dart board, a bathroom, and a rear storage room with a locked door. In a statement made to the CCRB in October 2019, in relation to § 87(2)(g) § 87(2)(b) explained that he conceived of the club as a members-only establishment. Members paid a monthly fee for unlimited access to the club. However, non-members could still enter by paying a fee at the door, and non-members were admitted without a fee during the first two months after § 87(2)(b) opened the club. § 87(2)(b) insisted that the club's structure did not involve the sale of alcohol, as patrons did not hand over cash in exchange for drinks. Instead, a patron's orders were "tabulated" at the end of the night and then he or she handed over "a donation" in return. In his CCRB statement for this case, made in November 2019, § 87(2)(b) similarly claimed that the club did not sell alcohol, as patrons only paid for memberships and paid generally to keep the club stocked with alcohol.

§ 87(2)(b) recounted that, on the night of the incident, § 87(2)(b) told him that she was expecting her friends to arrive shortly (BR04). A short while later, three people arrived at the door, and § 87(2)(b) granted them entry because he thought they were § 87(2)(b) friends. The three people went to the bar, were served drinks, and placed money on the table. § 87(2)(b) told them that they did not have to pay and that the drinks were complimentary. Shortly afterward, Det. Degaetano, Det. Wolfe, and other officers entered the club.

In his testimony, Lt. Chaudry explained that the 121st Precinct had received a complaint from a nearby business owner alleging narcotics sales and prostitution connected to § 87(2)(b)'s club (BR05). Searches of State Liquor Authority records showed that § 87(2)(b)'s club did not have a license to sell alcohol. The 121st Precinct's Field Intelligence Officer documented the complaint, and Anticrime teams surveilled the location and confirmed that alcohol was being served. § 87(2)(e)

Det. Degaetano similarly testified that § 87(2)(b)'s club had been the target of a number of complaints regarding various illegal activity including the § 87(2)(b) (BR06). Field investigations of the establishment confirmed that the staff were storing alcohol, and a search of the State Liquor Authority website confirmed that there was no active license for the sale of alcohol for that location. As noted above, Det. Degaetano previously arrested § 87(2)(b) in § 87(2)(b), § 87(2)(e)

Det. Degaetano recounted that, on the night of the incident, § 87(2)(e) Det. Degaetano and other officers waited in a vehicle nearby. § 87(2)(e)

at which point Det. Degaetano, Det. Wolfe, and other officers went to the club. Det. Degaetano recounted that he told § 87(2)(b) that the officers had received complaints § 87(2)(b)

Det. Degaetano confirmed that the club has a sign on its door reading, "Members Only," but he noted that the club allowed the § 87(2)(e) to enter and they clearly were not club members.

The officers vouchered the marked cash which the § 87(2)(b), § 87(2)(e)

(BR07).

It should be noted that CCTV footage from the club from an incident in December 2019 (contained in § 87(2)(g) shows that a civilian entered the club and exchanged cash for a drink at the bar. § 87(2)(g)

§ 87(2)(g)

An officer may enter an active business in the same manner as any private person. What a person knowingly exposes to the public at his business is not a subject of Fourth Amendment protection. *People v. Perez*, 78 A.D.2d 703 (2nd Dept., 1980) (BR08).

§ 87(2)(g), § 87(2)(e)

Allegation (D) Abuse of Authority: Detective Richard Degaetano searched § 87(2)(b) in Staten Island.

It is undisputed that Det. Degaetano initially attempted to kick open the locked door leading to the rear storage room, that § 87(2)(b) gave him the key to avoid damage to the door, and that Det. Degaetano used the key to enter the room and secure the club's digital video recorder system.

Det. Degaetano recounted that he saw a CCTV television monitor in the club which showed that the club's surveillance cameras captured the club's interior, and he saw that the wires from the monitor ran into the back room. § 87(2)(e)

A threat to the safety of officers can constitute an exigent circumstance justifying a warrantless search. *People v. Jimenez*, 22 N.Y.3d 717 (2014) (BR09).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- As previously noted, there are two additional, ongoing complaints regarding police action at § 87(2)(b)'s unlicensed club § 87(2)(b)
- Det. Richard Degaetano has been a member of the NYPD for nine years and has been a subject in three prior CCRB complaints and five allegations, none of which was substantiated. § 87(2)(b)
[REDACTED]
[REDACTED]
- Det. Michael Wolfe has been a member of the NYPD for nine years and has been a subject in four prior CCRB complaints and 21 allegations. 12 of those allegations were closed without substantiation, and nine remain under investigation. § 87(2)(b)
[REDACTED] § 87(2)(g)
[REDACTED]
[REDACTED]

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 16, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 5

Investigator:	<u>Stephen DiFiore</u>	<u>Inv. Stephen DiFiore</u>	<u>March 15, 2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Daniel Giansante</u>	<u>IM Daniel Giansante</u>	<u>March 13, 2021</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date